

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2398 of 2000

to

FIRST APPEAL No 2413 of 2000

SPECIAL LAND ACQUISITION OFFICER

Versus

AMBALAL NATHABHAI

Appearance:

GOVERNMENT PLEADER for Petitioners

MR GM AMIN for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE M.C.PATEL

Date of Order: 18/10/2000

ORAL (COMMON) ORDER

(Per : MR.JUSTICE J.M.PANCHAL)

Two appellants i.e. (1) The Special Land Acquisition Officer, Narmada Project, Unit No.3, Hariharanand Ashram, 2nd floor, End of Ellisbridge, Ahmedabad - 6 and (2) Executive Engineer, Narmada Project, Division No.3/5, Dholka, District Ahmedabad have filed above numbered appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908 challenging legality of common judgment and award dated December 8, 1999 rendered by the learned 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural) at Mirzapur in Land Acquisition Case Nos.279/96 to 294/96 by which it is held that the claimants are entitled to get compensation at the rate of Rs.9.50 paise per sq.m. for their acquired lands as additional compensation over and above the compensation already awarded by the Special Land Acquisition Officer. The learned Government Pleader has entered appearance on behalf of the appellant no.1 whereas on behalf of the

appellant no.2 Ms. Sejal K. Mandavia appears. On inquiry being made, Ms. Mandavia, learned counsel informs the court that she appears on behalf of the acquiring body. The Constitution Bench of Supreme Court in UP Avas Evam Vikas Parishad vs. Gyan Devi [AIR 1995 Supreme Court 724] has examined rights of local authority or company under Section 50(2) of the Land Acquisition Act, 1894 and inter alia ruled that in the event of enhancement of the amount of compensation by the Reference Court, if the Government does not file an appeal, the local authority can file an appeal against the award in the High Court after obtaining leave of the court. This very principle has been reiterated by the Supreme Court in Modi Spinning and Weaving Mills vs. Virendra and Others [(1998) 5 SCC 718]. As observed earlier, the Government has filed appeals against enhancement of the amount of compensation by the Reference Court. The local authority or company would be entitled to file an appeal against the award of Reference Court in the High Court only if the Government does not file an appeal and not otherwise. As the Government has filed the appeal, the appeal filed by the appellant no.2 is not competent. Moreover, as ruled by the Supreme Court, if the Government does not file an appeal, the local authority can file an appeal against the award of the Reference Court in the High Court only after obtaining leave of the court. The appellant no.2 has not sought any leave of the court to file appeals against the award of the Reference Court. For all these reasons, we are of the opinion that appeals by the appellant no.2 are not competent and cannot be entertained. Hence, the name of the appellant no.2 is ordered to be deleted from all the above numbered appeals.

(J.M. Panchal, J.)

(M.C. Patel, J.)

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